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452/6504

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Asaf TAMIR, et al.

Serial Number: 09/853,017

5 Filed: May 10, 2001

For: SONIC/ULTRASONIC AUTHENTICATION DEVICE

Group Art Unit: 2655

Examiner: Tim Lao

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JUN 24 2004

OFFICE OF PETITIONS

10 Mail Stop Petition  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

15 PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM UNDER 35  
U.S.C. 120 FOR THE BENEFIT OF A PRIOR-FILED APPLICATION

Sir,

20 Applicants hereby petition the Commissioner to accept an unintentionally delayed  
claim under 35 USC 120 for the benefit of a prior-filed application under the provisions of  
37 CFR 1.78(a)(3).

The petition is accompanied by the following:

- 25
- An amendment to the specification of the present application, including a reference  
to the prior-filed application as required by 35 USC 120 and 37 CFR 1.78(a)(2).
  - Deposit account authorization for the surcharge set forth in 37 CFR 1.17(t). (See  
30 attached transmittal letter).
  - A statement that the entire delay, between the date the claim was due and the date  
in which it was filed, was unintentional.

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I hereby certify that this correspondence is being deposited  
with the United States Postal Service as first class mail in an  
envelope addressed to Commissioner of Patents and Trade  
marks, Washington D.C. 20231 on June 17, 2004.

Richard F. Joworski

(Date of Deposit)

Name of Attorney-in-Fact

Signature

Date of Signature

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REMARKS

Applicants hereby petition the commissioner to accept an unintentionally delayed claim for continuation-in-part of US Application No. 09/806,789 filed January 22, 2002; which is a US national filing of PCT/IL99/00525, filed October 4, 1999 (published as WO

5 00/21020)

An amendment to the specification of the present application, to include a reference to the 09/806,789 application, is being filed concurrently.

Applicants hereby state that the entire delay in submitting the claim was unintentional, as the need to submit the claim only became apparent as a result of an office

10 action dated December 17, 2003. The two applications were originally filed for the applicant by two different patent agents; thus the need to reference the earlier application in the latter was not brought to the applicant's attention earlier.

Please see attached transmittal letter for deposit account authorization, for the fee set forth in 37 CFR 1.17(t).

15 Favorable consideration of the petition and issuance of a corrected filing receipt reflecting the complete priority information is respectfully requested.

Respectfully submitted,  
Asaf TAMIR, et al.

20

  
Miter Fenster,  
Reg. No. 41,016

June 17, 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of  
Asaf Tamir et al  
Application No. 09/853,017  
Filed May 10, 2001  
Attorney Docket No. 452/65048

DECISION ON PETITION  
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 21, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 10, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was

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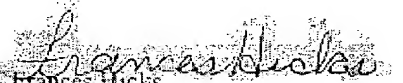
submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 2655 for appropriate action on the amendment filed June 21, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

  
Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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